

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1017 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 No
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DIWANCHAND

Versus

STATE OF GUJARAT

Appearance:

MR PM THAKKAR for Petitioners
MR ST MEHTA APP for Respondent No. 1
DELETED for Respondent No. 2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 03/03/2000

ORAL JUDGEMENT

This application under Section 482 of the Code of
Criminal Procedure is filed with a prayer to quash and

set aside the complaint filed by the complainant in Criminal Case No.303 of 1983 pending before the learned Metropolitan Magistrate, Ahmedabad as also to quash the warrant issued in the said case.

2. The present application was admitted in May 1983 and interim relief staying further proceedings and execution of warrant was granted. Thereafter, this matter has been listed for the second time in February, 2000 when the learned advocate for the petitioner had sought instructions from his clients. Today, when the matter is called out, it is stated on behalf of the applicants that they could not be contacted.

3. The original complaint in this case is made by a cloth merchant on the allegation that accused Nos.1, 2 & 3 had, on 10.7.1982, brought some goods on credit after creating confidence in the mind of the complainant. The payment against such goods was made by a cheque which was returned dishonoured and the efforts to recover the amount had failed. In these facts and circumstances, the complaint under Section 420, 34 & 114 of the Indian Penal Code is filed on which, after recording the statement of the complainant, firstly, order to issue bailable warrant and then non-bailable warrant are passed.

4. Considering the contents of the complaint and the submissions of the learned counsel for the applicants, this court does not find good and sufficient grounds to interfere with the proceedings pending before the trial court. It cannot be said that, prima facie, the complaint does not make out any case, nor can it be seen that the trial court has committed any error in taking cognizance of the offence and issuing the process.

5. In view of the facts as above, the present application requires to be rejected. It is accordingly rejected. Rule is discharged. Ad-interim relief stands vacated. No order as to costs.

Sd/-

(KMG Thilake)

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